

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002  
(Filed October 5, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING MOTIONS FOR PROTECTIVE ORDER  
REGARDING 2003 ELECTRICAL EMERGENCY PLANS  
UNTIL JUNE 30, 2005**

**1. Summary**

The motions of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) for protective order regarding their 2003 electrical emergency plans (EEPs)<sup>1</sup> are granted for a period of two years, through June 30, 2005.

**2. Background**

On May 30, 2003, SDG&E filed and served a motion for a protective order regarding its 2003 Electrical Emergency Load Curtailment Plan. SDG&E seeks protection for 10 years.

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<sup>1</sup> EEP here means PG&E's Electrical Emergency Plan, SCE's Electric Emergency Action Plan, and SDG&E's Electrical Emergency Load Curtailment Plan for the stated year.

On June 30, 2003, PG&E filed and served a motion to file its Electrical Emergency Plan 2003 under seal. PG&E seeks protection for three years.

On June 30, 2003, SCE filed and served a motion for protective order regarding its 2003 Electric Emergency Action Plan. SCE seeks protection for 10 years.

Each utility also filed both a redacted and unredacted version of its 2003 EEP, as well as filing and serving a Notice of Availability. No responses to the motions have been received.

### **3. Discussion**

Similar motions were made in 2002 for protection for up to 10 years of each utility's 2002 EEP. The motions were granted for a period of two years. (See Rulings dated June 28, 2002 and September 9, 2002.) The same reasons that justified protection of the 2002 EEPs justify protection of the 2003 EEPs.

#### **3.1. Justification for Protective Order**

Each utility's EEP contains sensitive employee and customer information used during an emergency. The information includes employee names, home telephone numbers, and work telephone numbers. It also includes the identities, locations and account numbers of essential customers (e.g., government agencies essential to the national defense, transmission level customers). As SCE points out, these are customers the Commission has determined are essential to public health, safety and security. Moreover, the Commission has previously ruled, according to SCE, that specific customer information should not be publicly disclosed without prior consent of the affected customer.

Further, each EEP contains information on the locations and identities of circuits within each rotating outage block and sub-block that, if disclosed, could create security issues. The EEPs contain information about curtailment plans

traditionally kept confidential in order to protect the integrity and security of system operations. Maintaining the confidentiality of this information is necessary to prevent harm to each utility, its employees and its customers.

Thus, PG&E, SCE and SDG&E persuasively argue that disclosure of information for which protection is sought would reveal confidential employee and customer information, and create serious security issues. Among other risks, it could make customers and electric systems vulnerable to sabotage or terrorism. The motions should be granted to protect public health, safety, security and welfare.

### **3.2. Duration of Protective Order**

SCE and SDG&E ask for protection for 10 years. In support, SCE asserts that neither the essential customer nor the circuit configuration data change significantly from year to year, and the information will continue to comprise a reasonably accurate list of sensitive information into the foreseeable future.

PG&E contends that protections already granted for its 2001 and 2002 EEPs will expire in 2004. Two-year extensions will likely be requested, according to PG&E, and, if granted, will result in protection until 2006. PG&E asserts that a three-year protective order of the 2003 EEP will make protection of these three EEPs (2001, 2002 and 2003) ripe for review again in 2006, thereby maximizing efficiency associated with the protective order process and minimizing the time and expense of all involved.

However, it is not Commission practice to hold documents under seal for periods exceeding two years. Because such documents receive statutory protection from disclosure by Commission employees pursuant to Pub. Util. Code § 583, and such disclosure can lead to prosecution as a criminal misdemeanor, it is important that we not seal records for long periods without

serious consideration. Here, we believe there is no basis to seal the information for more than two years given the ease with the utilities may obtain an extension of the protective orders if they continue to be justified.

I note that the Commission has required the utilities to file their EEPs with the Commission. In D.82-06-021, for example, the Commission required utilities to file such plans with the Commission's Docket Office in triplicate along with furnishing a copy to the Director of the industry division. There may be other similar filing requirements in other Commission decisions, including D.91548, D.01-04-006 and/or D.02-04-060.

If the utilities believe that they cannot accept a protective order of two years' duration rather than a longer period, I invite them to propose changes to the existing EEP filing requirements by a petition for modification or other appropriate vehicle. The changes might be, for example, to minimize the number of Commission employees who receive the documents and thereby are affected by a protective order of longer duration, or other modification of the filing requirement. The utilities may seek such changes now or at the expiration of this two-year protective order. If the utilities can develop a solution that appropriately balances the alleged need for long-term confidentiality against the burden on the Commission of holding records under seal for long periods, I may be persuaded to grant a longer period in the future.

**IT IS RULED** that:

1. The following motions are granted to the extent provided herein, and denied in all other respects:
  - a. The May 30, 2003 motion of San Diego Gas and Electric Company (SDG&E) for a protective order regarding its 2003 Electrical Emergency Load Curtailment Plan,

- b. The June 30, 2003 motion of Pacific Gas and Electric Company (PG&E) to file its Electrical Emergency Plan 2003 under seal, and
- c. The June 30, 2003 motion of Southern California Edison Company (SCE) for protective order regarding its 2003 Electric Emergency Action Plan.

These plans are referred to collectively as the utilities' EEPs.

2. Each protective order and sealing of information is granted for a period of two years, through June 30, 2005. The redacted material shall remain under seal for this period. During this period, the sealed information shall not be made accessible or be disclosed to anyone other than Commission staff, except on the further order or ruling of the Commission, Assigned Commissioner, Assigned Administrative Law Judge (ALJ), or the then designated Law and Motion Judge.

3. If a party believes that protection of the redacted information is needed beyond June 30, 2005, that party may file and serve a motion stating the justification for further withholding of the material from public inspection, or for such other relief as Commission rules may then provide. The motion for further protection shall be filed and served no later than 30 days before June 30, 2005.

4. If a party, person or customer seeks access to any information sealed herein in this or another Commission proceeding, or for any other reasonable purpose, and can establish that access to such information is necessary to its participation in such proceeding or other reasonable purpose, PG&E, SCE and/or SDG&E shall negotiate a nondisclosure and confidentiality agreement with that party. In the event of a dispute, the utility shall contact the ALJ assigned to the proceeding, or the Law and Motion Judge, for resolution of the dispute.

5. PG&E, SCE and/or SDG&E may seek modification of the Commission's EEP filing requirements for the purpose described in this ruling.

Dated July 24, 2003, at San Francisco, California.

/s/ SARAH R. THOMAS

Sarah R. Thomas  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by regular mail, and by electronic mail on those parties with an electronic mail address, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motions for Protective Order Regarding 2003 Electrical Emergency Plans Until June 30, 2005 on all parties of record in this proceeding or their attorneys of record.

Dated July 24, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.